

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

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|----------|---|------|-------------------|
| Case No. | EDCV 08-0659 AHM (VBKx)<br>CV 08-3871 AHM (VBKx)<br>CV 08-3873 AHM (VBKx)<br>CV 08-3874 AHM (VBKx)<br>CV 08-3875 AHM (VBKx)<br>CV 08-3882 AHM (VBKx)<br>CV 08-3891 AHM (VBKx)<br>CV 08-3929 AHM (VBKx)✓   | Date | November 20, 2008 |
| Title    | JEFFREY KLEIN v. AVIS RENT A CAR SYSTEM INC., et al.<br>ZACK MILLER v. BUDGET RENT A CAR SYSTEM, INC., et al.<br>ZACK MILLER, et al. v. ENTERPRISE LEASING COMPANY-WEST, et al.<br>ZACK MILLER v. VANGUARD CAR RENTAL USA, INC., et al.<br>ZACK MILLER v. DTG OPERATIONS, INC., et al.<br>VULCANO TARQUE v. NATIONAL RENTAL CAR FINANCING CORP., et al.<br>ANDREW L. WOOLF v. COAST LEASING CORP., et al.<br>ZACK MILLER, et al. v. THE HERTZ CORPORATION, et al. |      |                   |

Present: The  
Honorable

A. HOWARD MATZ, U.S. DISTRICT JUDGE

Stephen Montes

Not Reported

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys **NOT** Present for Plaintiffs:

Attorneys **NOT** Present for Defendants:

**Proceedings:** IN CHAMBERS (No Proceedings Held)

Eight putative class actions challenging certain aspects of the sale of rental car insurance in California have been filed in this Court. The cases are nearly identical in numerous respects: they are comprised of the same or substantially similar and related claims; the putative classes in all of the cases are comprised of purchasers of car rental insurance from the defendants; the operative complaint in all the cases is the first amended complaint; Zack Miller is a named plaintiff in five of the cases; in the majority of the cases the plaintiffs allege similar bases for their standing; the plaintiffs' attorneys in all eight cases are the same, with a few minor exceptions; and the defendants in three of the cases are represented by the same attorney. To avoid confusion, the Court will refer to these cases by the names of the principal defendant.

Defendants in six of these actions have recently filed nearly identical motions to dismiss, some of which also seek to strike portions of the first amended complaint or a

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more definite statement. In the majority of the cases the defendants' arguments for why the actions should be dismissed or portions of the first amended complaints should be stricken are identical or substantially similar.

Pursuant to the Court's inherent power to adjudicate civil actions efficiently, the Court will first adjudicate the motion defendants filed in *Zack Miller v. Vanguard Car Rental USA, Inc., et al.*, CV 08-3874 AHM (VBKx) ("the *Vanguard* action"). All pending motions in the five other car rental insurance cases where motions were made are hereby vacated.<sup>1</sup> Defendants in those cases will be deemed to have joined in the Rule 12 motion in the *Vanguard* action, and in the reply to Plaintiff's opposition to that motion. Further, defendants in the remaining two cases shall not file any Rule 12 motions until the resolution of the *Vanguard* motions.

The Court has chosen to adjudicate the *Vanguard* motion first because the *Vanguard* complaint and motion are representative of the majority of issues raised in the other cases, and *Vanguard* is represented by the same attorney who represents *Enterprise* and *National*.

The Court anticipates that its ruling on the *Vanguard* motion will apply to the other motions that were filed. If the Court dismisses some claims with leave to amend, then all

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<sup>1</sup> CV 08-3873, Docket No. 18; CV 08-3874, Docket No. 20; CV 08-3875, Docket No. 20; CV 08-3882, Docket No. 15; CV 08-3891, Docket Nos. 23, 24.

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first amended complaints having comparable allegations also will have to be amended. If the Court dismisses claims with prejudice, then all those claims would have to be dropped in the other cases too.

Five pending motions, including the *Vanguard* motion, were set for hearing on November 24, 2008. That means that the plaintiffs' oppositions to the motions were due on November 10, 2008. Rather than submit their opposition papers in a timely fashion, on November 14, 2008 the plaintiffs submitted stipulations for continuances of the hearing dates and briefing schedules, stating that they needed more time to prepare their oppositions. Those stipulations should have been filed prior to November 10, 2008. In the future, the Court will not tolerate such sloppiness or other conduct in violation of court rules, and may impose sanctions. In any event, the Court will grant the stipulation in *Vanguard* and continue the hearing on the *Vanguard* motion<sup>2</sup> to December 15, 2008. Pursuant to the stipulation, Miller must file and serve his opposition on or before November 24, 2008, but Vanguard must file its reply on or before December 5, 2008.

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<sup>2</sup> CV 08-3929, Docket No. 24.

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After the pleadings have been settled, the Court intends to consolidate all these cases for the purposes of class certification. Initially, at least, there will probably be just one certification motion that the Court will entertain, and the ruling on it will serve as the equivalent of a “test ruling.” The Court likely will allow or require other defense counsel to assist the test case defendant’s counsel in opposing the motion.

Initials of Preparer

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